



CITY OF HAYWARD

AGENDA REPORT

AGENDA DATE 12/19/00

AGENDA ITEM 6

WORK SESSION ITEM _____

TO: Housing Authority Board of Directors

FROM: Director of Community and Economic Development

SUBJECT: Assumption Agreement for Barrington Hills Apartments

RECOMMENDATION:

It is recommended that the Housing Authority Board adopt the attached resolution authorizing the Executive Director to sign the Assignment, Assumption, Consent and Release Agreement (Assumption Agreement) transferring the ownership of Barrington Hills Apartments from the AvalonBay Communities, Inc. to Ameriton Properties, Incorporated.

DISCUSSION:

In 1985, the Housing Authority of the City of Hayward issued tax exempt mortgage revenue bonds for the development of the Foothills Apartments, a 188 unit rental project located at the corner of Tennyson and Mission. Of those units, twenty percent (38 units) were set aside for households whose income did not exceed 70% of median, adjusted for family size – currently, \$42,600 for a family of three.

In 1994, the Housing Authority Board authorized the transfer of ownership of the project (now called “Barrington Hills”) from the original developer to Bay Apartment Communities Real Estate Investment Trust (now called “AvalonBay Communities, Inc.”) In 1995, the Housing Authority Board authorized issuance of refunding bonds for the project, extending the term of affordability for twenty percent of the units until 2010.

The 1995 Regulatory Agreement between Bay Community Apartments and the Housing Authority of the City of Hayward requires that the Authority approve the sale and transfer of Barrington Hills if:

- the new purchaser has assumed in writing all of the current owner’s duties and obligations under the Regulatory Agreement and other documents and is willing and capable of complying with the terms and conditions of the Regulatory Agreement;
- the current owner has not defaulted on the loan or Regulatory Agreement and all fees have been paid pursuant to those documents;
there is an opinion of Bond Counsel that the purchaser has assumed all obligations under the documents and that they are binding on the purchaser; and that such sale will not affect the tax exempt status of the bonds;

the issuer or the trustee does not have any reason to believe that the purchaser is incapable or unwilling to comply with the terms of all current agreements relating to this project; and the transaction is in compliance with applicable law.

The new purchaser, Ameriton Properties Incorporated is a privately owned real estate investment company focusing on the development, acquisition and rehabilitation of multifamily communities throughout the United States. As of June 30, 2000, Ameriton owned or controlled \$395 million of investments, including 17 sites in 12 major cities. Ameriton is closely affiliated with Archstone Communities Trust, a publicly traded REIT on the New York Stock Exchange. Archstone's market capitalization is approximately \$5.7 billion. Staff has reviewed Ameriton financial statements to ensure that Ameriton has the financial ability to maintain this property in excellent condition. Ameriton has assumed, in writing, all of the current owner's duties and obligations under the Regulatory Agreement and other documents and is willing and capable of complying with the terms and conditions of the Regulatory **Agreement**. Bond Counsel has prepared an opinion to that effect. Staff has no reason to believe that the purchaser will not comply with all of the terms and agreements of all current agreements for the project.

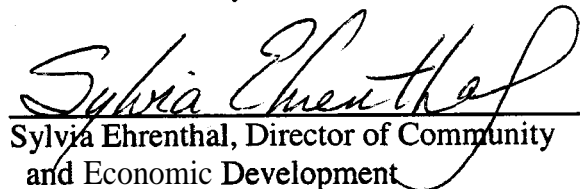
The purchase does not make any changes in the Regulatory Agreement. The regulatory restrictions for 20% of the units will end in 2010, as is the case under the current ownership. Since all of the requirements for the sale have been met, staff is recommending that the Housing Authority Board authorize the Executive Director to sign the Assumption Agreement.

Prepared by:



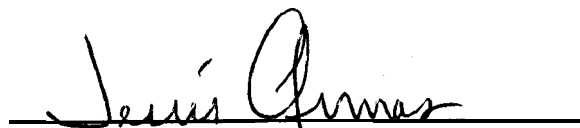
Ann R Bauman, Neighborhood and
Economic Development Manager

Recommended by:



Sylvia Ehrenthal, Director of Community
and Economic Development

Approved by:



Jesus Armas, City Manager

Resolution

DRAFT

HOUSING AUTHORITY OF THE CITY OF HAYWARD 

RESOLUTION NO. **HA-**_____

Introduced by Commissioner _____

RESOLUTION AUTHORIZING THE EXECUTIVE
DIRECTOR TO EXECUTE AN ASSUMPTION AGREEMENT
TRANSFERRING-OWNERSHIP OF BARRINGTON HILLS
APARTMENTS

BE IT RESOLVED by the City Council of the City of Hayward that the Executive Director of the Housing Authority Board is authorized and directed, on behalf of the City of Hayward, to execute the Assignment, Assumption, Consent and Release Agreement (Assumption Agreement) transferring the ownership of Barrington Hills Apartments from the **AvalonBay** Communities, Inc. to Ameriton Properties, Incorporated, in a form to be approved by Counsel for the Housing Authority Board.

HAYWARD, CALIFORNIA _____, 2000

ADOPTED BY THE FOLLOWING VOTE:

AYES:

NOES:

ABSTAIN:

ABSENT:

ATTEST: _____
Secretary of the Housing Authority of the City of
Hayward

APPROVED AS TO FORM:

Counsel of the Housing Authority for
the City of Hayward